Reserved Judgment

HIGH COURT OF UTTARANCHAL AT NAINITAL.

First Appeal No. 997 of 2001
(Old Defective F.A. No. 160 of 1993)

Aman Puri Chela and adopted son of Shri Hardnand Puri R/O Mohalla Sot Pargana and Tehsil Roorkee, District Haridwar.
…Claimant-**Appellant.**

Versus

1. State of Uttar Pradesh through Collector District Hardwar.
2. Collector Hardwar.

…O.P.-**Respondents.**

Sri Lokpal Singh, Adv., learned counsel for the appellant.
Sri Bhupendra Singh, Learned Standing Counsel for the respondents.

Coram: Hon'ble P.C.Verma,J.
Hon'ble B.S. Verma.,J.

Dated December 22, 2006.
(Per Hon. B.S. Verma, J.)

This appeal under section 54 of the Land Acquisition Act ***(for short the Act)*** read with Section 96 C.P.C. by the claimant is directed against the judgment and award dated 2-11-1992 passed by the then Additional District Judge Roorkee, District Hardwar, in Land Acquisition Reference No. 205 of 1989, Aman Puri Vs. Collector Hardwar, whereby the learned Reference Court awarded compensation to the claimant for the land @ Rs. 7,236.64 per Bigha along with solatium @ 30% and interest @ 9% per annum for one year from the dated of taking over possession and thereafter @ 15% per annum, as mentioned in the impugned order. The learned Judge has decided Land Acquisition Case No. 158 of 1989, Land Acquisition case No. 159 of 1989, Land Acquisition Case No. 205 of 1989, Land Acquisition Case No. 300 of 1989, Land Acquisition Case No. 188 of 1989, Land Acquisition Case No. 213 of 1989, Land Acquisition Case No. 160 of 1989, Land Acquisition Case No. 206 of 1989, Land Acquisition Case No. 219 0f 1989 and Land Acquisition Case No. 187 of 1989 by common judgment L.A. Reference Nos. 188 of 1989, 213 of 1989, 160 of 89, 206 of 1989 and 187 of 1989 (in so far it related to plot no. 704) were dismissed

while rest of the references were partly allowed including L.A. Reference No. 187 of 1989 relating plot no. 701/1.

Relevant facts of the case are that land measuring 111-19-10 Bigha of village Roorkee and 21-6-12 Bigha of village Malakpur Latifpur, (total 133-6-2 Bigha land) was acquired by the State under the World Bank Project for modernization of Ganga Canal and for construction of parallel Ganga Canal. Notification under section 4 of the said Act was issued vide No. 300/ILA/Saharanpur/808-86 Lucknow dated 14-5-86 and published in the official Gazette on 30-8-1986 followed by notification under Section 6 of the Act dated 3-11-1986 and possession of the land was taken on 5-1-1987. Ultimately the Special Land Acquisition Officer ***(S.L.A.O.)*** passed his award dated 4-1-1989. The S.L.A.O. has awarded six different rates for the land under acquisition in village Malakpur Latifpur and Roorkee, as mentioned by the claimant-appellant in para no. 3 of his petition. According to the claimant, a flat rate of compensation should have been fixed for the entire land by the SLAO. The S.L.A.O. has awarded compensation to the claimant @ 6106.87 per *Bigha.*

The learned District Judge framed necessary issues in the case, recorded the evidence led by the parties and after perusing the record, the learned Reference Court has partly allowed the reference and awarded compensation at the rate of Rs. 7,236.64 P. per Bigha and accordingly enhanced the compensation vide order dated 2-11-1992. Aggrieved, the claimant has come up in appeal before this Court.

The learned counsel for the appellant has argued before us that the entire land under acquisition was acquired by the same Notification for the same public purpose. It has also been submitted that the village Roorkee and village Malakpur Latifpur are adjoining to each other and the potentiality of the acquired land is also similar

and the entire land under acquisition is similar in quality, situation, location and other factors.

Before the reference court the claimant has examined himself as PW 1. He has stated that his land is situate on Roorkee Haridwar main road from a distance of 200 yards from his land, there is Abadi of village Malakpur. Telephone Exchange Colony, Private bus stand, Church etc. are at a distance of 200 yard from the acquired land. He has clearly stated that his land and that of Roorkee was acquired by same Notification and for the same purpose. The claimant (PW 1) has stated on oath that when the land was acquired, the prevailing rate of land was Rs. 20/- per sq.ft. and compensation should have been paid at this rate. From the side of the State, Harphool Singh Drafts man of the department has been examined as D.W.1. The testimony of D.W.1 is not very material on the point of market value of the acquired land.

In the course of arguments, the learned counsel for the claimant-appellant pointed out that this Court has already decided the controversy vide judgment and order dated 15-7-2005 passed in First Appeal No. 1050 of 2001 Janak Singh and another Vs. Collector Haridwar and another along with six other appeals whereby compensation @ Rs. 16/- per sq.ft. has been awarded instead of Rs. 12/- per sq.ft. as assessed by the Special Land Acquisition Officer. It has been submitted that the facts of the decided case are similar to the present case. We have perused the Division Bench judgment of this Court dated 15-7-2005 passed in First Appeal No. 1050 of 2001. It is obvious that the land under the decided appeals had been acquired by the same Notification for the same public purpose, as is the case in the case at hand.

Learned counsel for the appellant vehemently submitted that the land of the appellant as well as other land-owners covered by the Division Bench Judgment of this Court in First Appeal No. 1050 of 2001 Janak Sing and another Vs. Collector Haridwar and another

had been acquired under same Notification for the same public purpose and the lands of the claimant-appellant and that of other landowners were similarly situated, hence the S.L.A.O. and the Reference Court fell into error in not allowing the same rate of compensation to the claimant-appellant. In Support of this contention, the learned counsel has placed reliance upon the case of ***Nand Ram and others Vs.The State of Haryana (1989 All India Land Acquisition and Compensation Case page 1)*** wherein it has been held ***"Land Acquisition Act, 1894, Section 23- Compensation- State to pay similar compensation to the landowners whose lands were similarly situated and were acquired under the same notification for the same public purpose."*** In that case it has been held that "The State cannot refuse to pay in respect of lands acquired under the same notification compensation awarded to the land owners whose similarly situated lands had been acquired under the same notification for the same purpose by the Notification of the same date."

As stated earlier the lands of village Roorkee and village Malakpur Latifpur total measuring 133-6-2 Bigha were acquired by the Notification under Section 4 of the Land Acquisition Act No. 300/ILA/Saharanpur/808-86 Lucknow dated 14-5-86 published in official Gazette dated 30-8-1986 followed by Notification under Section 6 of the Act dated 2-8-86 published in the Gazette dated 3-11-1986 for modernization of Ganga Canal and for construction of parallel Ganga Canal by the Government of Uttar Pradesh under the World Bank Project. It has not been seriously challenged that the lands of the above two villages are not similarly situated. It is pertinent to mention that this Court while allowing seven appeals (F.A. No. 1050 of 2001 and six others) has held that the correct market value of land in question is Rs. 16/- per Sq.Ft. It was further directed that the appellants shall be paid compensation at the enhanced rate along with 12% interest under Section 23, Solatium 30% under Section 23(2)(a), 9% interest up to the date of possession and 15% thereafter, under Section 28 of the Land

Acquisition Act. So far as the solatium, interest part is concerned, the learned Reference Court has passed proper order in the case at hand. Therefore, following the Apex Court verdict in the case of *Nand Ram (supra)* and in view of the Division Bench judgment of this Court dated 15-7-2005 passed in First Appeal No. 1050 of 2001 (Old No. 473 of 1995) Janak Singh and another Vs. Collector Haridwar and another the claimant-appellant shall get compensation at the rate of Rs. 16/- per sq.ft. instead of Rs. 7,236-64 per Bigha as awarded by learned Reference Court. The appeal preferred by the claimant-appellant Aman Puri is liable to be allowed to the above extent.

In view of the discussion above, the appeal preferred by the claimant is liable to be allowed. The impugned judgment and award passed by the Reference Court is liable to be modified.

The appeal is allowed. The impugned judgment and award dated 2-11-1992 passed by the Additional District Judge, Roorkee in Land Acquisition Case No. 205 of 1989, Amanpuri Vs. Collector, is modified to the extent that the claimant shall get market value of the land at the rate of Rs. 16/- per sq .ft. as mentioned above. He shall get solatium, interest etc. as awarded by the Reference Court on the enhanced rate of land. In the circumstances of the case, no order as to costs.

(B.S. Verma, J.) **(P.C. Verma, J.)**

RCP